

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:

CASE NO.

TAWNY S. KILGO

05-00406-5-ATS

DEBTOR

ORDER DENYING MOTION TO SELL PROPERTY

The matter before the court is the debtor's motion to sell property. A hearing took place in Raleigh, North Carolina on October 31, 2005.

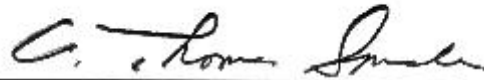
Tawny S. Kilgo filed a petition for relief under chapter 7 of the Bankruptcy Code on February 4, 2005, and Gregory B. Crampton was appointed trustee. Ms. Kilgo filed a motion to sell her residence, to which the trustee objected because the estate would incur liability with no corresponding benefit.¹ At the same time, the trustee filed a motion to abandon the property, but the response time has not expired on the motion to abandon, and the property remains property of the estate.

The motion to sell will be denied. A trustee is authorized by 11 U.S.C. § 363 to sell property, but there is no provision of the Bankruptcy Code that authorizes the court to approve sales by chapter 7 debtors. The court does not have the authority to allow the debtor to sell the property over the objection of the trustee.

Based on the foregoing, the motion to sell is **DENIED**.

SO ORDERED.

DATED: October 31, 2005



A. Thomas Small
United States Bankruptcy Judge

¹ The sale is a "short sale" in which the proceeds of the sale will be insufficient to pay the encumbrances in full. The secured lender has agreed to the sale under certain conditions, but there will be no proceeds to benefit the estate.